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ELEVENTH EDITION

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Chapter 12

ISRAEL

Harry Orad[1]

I INTRODUCTION

The Israeli insurance market is an expanding and evolving environment. In this area, the focus of both the legislature and the relevant regulator is on the protection of the individual consumer. Courts of law have traditionally followed suit with this public policy, although, in recent years, a slight shift can be perceived towards a more balanced construction of insurance policies.

II REGULATION

i The insurance regulator

The insurance market is regulated by the Commissioner of Capital Markets, Insurance and Savings, appointed by the Minister of Finance. Two bodies advise the Commissioner: a four-member Advisory Committee and the Advisory Council, which has 15 members, of whom no more than six may be government employees.

The Commissioner is competent to resolve disputes between insurers and assureds. In practice, it will refrain from assuming this role in fact-laden cases. Its decision may be appealed to the district court.

From time to time, the commissioner issues directives to the market. The Supreme Court[2] stated that the Regulator's directives reflect the legal policy of protecting insureds and narrowing the inequality between them and insureds.

Having said that, the courts often comment that the interpretation of a regulator's directive remains in the courts' hands.

ii Licensing

Writing insurance requires a licence. Foreign insurance companies cannot write insurance business in Israel without an Israeli licence, but Israeli citizens may buy insurance abroad. Writing reinsurance business, however, does not require a licence, and foreign insurers are therefore free to do so.

The Commissioner is authorised to license a foreign company if the latter is registered in Israel and subject to regulation in the country of origin.

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1 Harry Orad is a founding partner at Gross Orad Schlimoff & Co.

2 LTA 10641/05 *The Phoenix Insurance Company Ltd v. Assulin* (2006).

In a unique act, the Israeli government enacted a regulation in December 1951 exempting Lloyd's underwriters from the stipulations of the Law of Controlling Insurance Service. The practical effect of this is that Lloyd's underwriters are permitted to write business directly in Israel.

iii Compulsory insurance

Israeli law imposes compulsory insurance requirements on professionals or individuals in several areas, including the following:

a the capital market: Investment advisers and distributors; investment portfolio managers, mutual fund managers and trustees; provident funds and their managing companies; and underwriting companies. This compulsory insurance ensures protection of clients against negligent acts and omissions and infidelity of employees;

b bodily injury coverage: In clinical trials on human subjects (insurance requirements are imposed on the clinical trial sponsor);

c motor accidents: The Israeli Road Accident Victims Compensation Law provides compensation for all victims of motor accidents on a no-fault basis. Compulsory insurance by all vehicle owners provides the source of compensation. Sport events organised by registered sports authorities and organisations are subject to compulsory accident insurance. Schoolchildren are covered by compulsory personal injury insurance;

d banks: There is no statute that compels banks to acquire compulsory insurance; however, the Commissioner of Banks has issued a directive that requires banks to acquire employee dishonesty insurance; and

e aviation: Current regulations impose compulsory insurance on operators of commercial aircraft to, from or in Israel, in respect of passengers, baggage and cargo; third parties; and acts of hostility, war or terror.

iv Directors' and officers' insurance

Directors' and officers' (D&O) insurance, although not mandatory, has become a prerequisite for most high-ranking D&Os. Israeli courts have demanded accurate, full, updated reporting. The business judgement rule (BJR) has been adopted by the Supreme Court and affects D&O litigation.

In the *Better Place* appeal,[3] the Supreme Court reiterated that the BJR affords directors and officers protection from submitting the content of their business judgement decision to judicial review, where the process leading to said decision was appropriate (in good faith, informed and without conflict of interest).

The Supreme Court added that in principle, in appropriate cases, the BJR can be good reasoning for summary dismissal of a claim.

Recent years have seen an increase in the number of derivative claims and class actions in respect of breach of duties by D&Os, most of which end in settlements in which insurers play an important role.

3 CA7829/18 *Better Place Israel et al. v. Agassi et al.* (2022).

The Israeli Companies Law prohibits the indemnification (as well as insurance and exemption) of a director or officer in respect of the following matters:

a breach of fiduciary duty towards the company, unless committed in good faith and with reasonable grounds to believe that the action would not prejudice the company's interests;

b acts committed intentionally or recklessly;

c acts committed with the intention of gaining unlawful personal benefit; and

d fines and penalties, including civil fines and monetary levies.

III INSURANCE AND REINSURANCE LAW

i Sources of law

The Israeli legal system is fundamentally a common law regime, without jury. However, throughout the years, civil law statutes have been enacted. The Insurance Contract Law 1981 (ICL) adopted principles of consumer protection. The Control of Financial Services (Insurance) Law provides regulatory provisions for the market. The ICL applies to all types of insurance other than reinsurance, marine, aviation and insurance of diamonds or valuable metals.

ii Making the contract

The ICL does not specify a unique format for execution of the insurance contract. However, it does specify rules aimed at reinforcing consumer rights and imposing limitations on insurers, remedies and power. These rules aim to moderate the typical imbalance of power between the insurer and the insured.

Duty of disclosure

The ICL imposes an explicit duty on the insured to answer the insurer's questions in full and truthfully, when presented in writing in respect of a material matter. A material matter is defined by the Law as one that could affect a reasonable insurer's willingness to assume the risk in general or to assume it under the terms specified by the policy.

The Law further stipulates that fraudulent concealment of a matter that the insured was aware of as being a material matter is regarded as an untruthful and incomplete answer. Israeli courts have interpreted this in conjunction with the questions posed by the insurer on the proposal form: a subject not mentioned in a proposal form has been deemed to be immaterial and therefore there can be no positive duty of disclosure regarding such a subject and no sanction for non-disclosure.

iii Interpreting the contract

An insurance contract is interpreted according to the (revised) Article 25 of the Law of Contracts and case law, which clarified rules of interpretation of insurance policies, such as *Cohen v. Migdal Insurance Company*[4] and *MS Aluminium v. Arie Insurance Company*.[5]

4 CA 4688/02.

5 CA 453/11.

The stages of interpreting a policy are as follows:

a The first stage is based on the subjective intention of the parties to the specific policy. If possible, the parties' intentions will be ascertained literally from the language of the insurance contract. Otherwise, for the subjective intention, the court will look at external circumstances, such as communications exchanged between the parties.

b Second, if the subjective intention of the parties cannot be ascertained, then the court will seek the objective intention of the parties, namely the intention of reasonable and honest parties with respect to the policy in question. The objective intention can be ascertained, for example, from common practice among other insurers in the relevant type of insurance.

c A policy construction that gives it force and effect is preferable over one that voids the policy provisions.

d Only if the court cannot ascertain the subjective or objective intention of the parties will the court interpret ambiguities in the policy against the drafter (usually the insurance company).

e Courts also refer to the doctrine of the reasonable expectations of the insured, but only if there are several reasonable interpretations and one of them meets the reasonable expectations of the insured. This is generally used together with other rules of interpretation.

Warranties and conditions precedent

The ICL provides no basis for the doctrines of warranties and conditions precedent as implemented in common law countries. The Israeli law has adopted a proportionate remedy principle regarding breach of both contract terms and the duty of disclosure. The significance of this principle is that other than in cases of fraud, there is no automatic exemption of the insurer from liability.

Where the insurer alleges breach, the court will consider its extent and effect and is authorised to reduce liability proportionately according to the ratio of the actual premium and the higher premium that would have been charged had the insured disclosed the material matter or had the insurer known that the policy condition would not have been adhered to.

In the important decision of the Supreme Court in the *Piccali*[6] case (additional hearing), the Court ruled that the provision provisions of the ICL, which applies a proportionate remedy for risk aggravation, are only relevant to external events that are beyond the control of the insured. It would not apply where the policy was breached knowingly by the insured. In this case, the insured intentionally did not purchase cover for a young driver, to save the additional incremented premium. The Supreme Court ruled that this intentional decision cannot be rectified retroactively. Where the insured has breached the policy terms as a result of an intentional decision or conduct, the policy does not apply, and the insurer is fully exempted from any liability under the policy.

This decision takes a clear stand on full exemption from liability based on whether there has been aggravation of risk as a result of an external event that was beyond the insured's control, or as a result of a conscious decision of the insured to take a risk for which he or she deliberately refrained from purchasing cover, in a controlled decision to breach the policy terms.

6 CAH 5325-19 *Hachshara Insurance Company Ltd v. Piccali*.

The insurer bears the burden of proof that full disclosure or non-adherence to the condition would have had an effect on underwriting.

Furthermore, the ICL negates remedies where the breach of the duty of disclosure or the policy condition did not affect the risk.

iv Intermediaries and the role of the broker

The licensing of insurance brokers is regulated by law, requiring a licence, which follows on from practical training and examinations. The licensing is in three areas of expertise: general insurance, marine and pension insurance brokerage.

The licence may be granted to an individual or to a corporation.

The activities of insurance agents are regulated by law. An insurance agent is defined as 'one who engages in insurance brokering between the insured and insurers, and as a liaison between the insurer and the insured'. It is considered an agent of the insurer with regard to the negotiations leading up to the formulating of the insurance contract, unless appointed in writing by the insured as an agent of the insured. As the agent of the insurer, any fact brought to its knowledge regarding a material matter will be considered as known by the insurer for the purpose of the insured's duty of disclosure.

Payment of premium to the agent is also considered as payment to the insurer.

The agent is considered the insurer's agent for the purpose of receiving notice of the identity of the insured and the beneficiary unless the insurer informed the insured and the beneficiary in writing that notification must be sent to a different recipient.

The presumption that the insurance agent is the agent of the insurer serves as an obstacle that insurers must surmount to be allowed to rely on policy terms.

v Claims

Notification

The ICL provides that the insured must notify the insurer of the insured event immediately after becoming aware of its occurrence. However, as with the approach to breach of policy terms or the duty of disclosure, the ICL does not sanction late notification with automatic dismissal of the claim. The burden of proof in this respect is on the insurer, who must prove substantive damage as a result of the failure to notify on time. To meet this burden, it is not sufficient to show a theoretical possibility that damage may be sustained by the insurer.

In any case, the claim will not be dismissed but reduced proportionately with regard to the extent of the damage caused by the delay. Furthermore, as with most provisions of the ICL, the above are reinforced as the ICL mandates that these provisions cannot be modified by agreement unless the modification is in favour of the insured. The practical effect of these provisions is that, as a rule, insurers cannot rely on a 'late notification' argument unless their rights were significantly prejudiced as a result of the late notification. These provisions have been the subject of discussion in numerous Israeli court cases wherein the courts have consistently ruled that an insurer that wishes to benefit from the remedy provisions must show that its rights were actually prejudiced by the insured's non-compliance with the duty to notify.

Good faith and claims

Section 27 of the ICL provides that the insurance benefits will be paid within 30 days of the day on which the insurer is in possession of the information and documents required for the ascertainment of his or her liability. However, insurance benefits not disputed on bona fide grounds will be paid within 30 days of the day on which a claim is submitted to the insurer and they may be claimed separately from the remainder of the benefits.

Insurer's duty to issue a coverage position letter

Coverage position letters have been the basis of limitations on insurers' practical rights and scope of defence in Israeli courts, where the coverage position letter did not meet the regulator's requirements. These requirements have been adopted by the courts as legally binding in the framework of the insured–insurer relationship. The Supreme Court added that insurers' obligations also apply to a third party that is entitled to direct privity with the insurer.

The first directive on the subject, issued in 1998, required the insurer to specify all grounds for denial of coverage, sanctioning failure to do so by precluding the insurer from raising any new argument in future litigation. The Commissioner cited the insured's right to receive all details to be able to seek advice regarding possible legal relief on the basis of the insurer's position as the rationale for this sanction.

A later variation clarified that arguments based on events subsequent to the coverage position letter, or based on grounds that could not have reasonably been known to the insurer when issuing the coverage position letter, would be allowed to be introduced at a later stage.

The courts afforded the directives the power to limit the scope of insurers' rights to evoke defence arguments beyond those cited in the coverage position letter:

a the insurer is obliged to effectively investigate the circumstances of the loss or claim to form its coverage position as soon as possible after receipt of the claim;

b the coverage position must be provided to the insured in writing, within 30 days of receipt of information and documents required from insured;

c where coverage is declined (whether wholly or partially), all grounds for this position must be detailed therein;

d the insurer is precluded from raising any argument on circumstances, conditions or exclusions that were not mentioned in the coverage position letter; and

e the insurer will be able to broaden its defence only in rare cases where the circumstances material to its updated coverage position were not known and could not reasonably have been known. Such cases would certainly include intentional behaviour aimed at concealing material facts from the insurer.

It should be noted that the Lod District Court recently ruled[7] that the insurer's duty to detail all its reasons for rejecting a claim, in the first opportunity, does not apply when the claim is between two insurance companies alleging double insurance.

7 CA (Center) 12032-10-16 *Clal Insurance Company Ltd v. Fadida et al.* (2022).

vi Reinstatement

Reinstatement clauses are common in property insurance and provide coverage beyond the scope of the ICL. Reinstatement (i.e., 'new for old') is an additional cover and is subject to a time limit, which may cause friction with the insurer.

The condition that reinstatement costs are due (beyond compensation for the actual damage) only after the insured covers his or her expenses independently and only after the reinstatement is complete, is a basic condition for the implementation of reinstatement insurance.

The time limit will not apply where the insurer is found to have unlawfully denied insurance benefits and so prevented the insured from reinstating the damaged property. In *Hadar Insurance Co Ltd v. Ehad Ha'am Ltd*[8] the insurer claimed that the insured failed to reinstate the equipment in the allotted time and therefore was not entitled to reinstatement values. The Supreme Court rejected the insurer's argument, ruling that by detaining the insurance benefits for the actual damage, the insurer prevented the insured from reinstating the equipment and therefore could not invoke the time limit condition against the insured.

vii Dispute resolution clauses

The insertion of dispute resolution clauses is not widely accepted in standard policies, as this is considered an infringement of the insured's rights to take up matters with the courts.

viii Punitive interest

The amended Section 28 of the ICL stipulates that in personal insurance (life, auto, home, health – but not liability) the court is obliged to award, and in non-personal insurance the court may award, an additional interest award of up to 20 times the basic interest rate, when an insurer did not indemnify the insured the amounts not in dispute in good faith on the appropriate date (in long-term care insurance – up to 10 times). If the court decides not to apply this special rate, it should explain the reasons for its decision.

Section 27 provides that the insurance benefits will be paid 30 days after the insurer received all information and documents required to ascertain the insurer's liability under the insurance contract. For insurance benefits that are not in dispute, the payment should be made within 30 days of the date the insurance claim was notified to the insurer. If this Section is breached, the insurance benefits will accumulate the above-mentioned interest. According to a Supreme Court precedent, the 30-day period will be calculated from the date the insured notified the insurers regarding the insured event.

ix Insurance Arbitration Institute

A new bill proposed by the Ministry of Finance in 2018 stipulated the establishment of an Insurance Arbitration Institute and compulsory arbitration of insurance claims in this Institute (except for claims by big companies and claims against third parties). If, and in what format, it will move forwards is yet to be determined.

8 CA 7298/10.

IV DISPUTE RESOLUTION

i Jurisdiction, choice of law and arbitration clauses

As a rule, insurance contracts, other than those concerning reinsurance, marine, aviation, diamonds and precious metals are subject to Israeli law. Jurisdiction is local and the competent court is determined by the amount claimed – up to 2.5 million shekels with the lower court and above this amount with the district court, as first instances.

ii Litigation

There is an automatic right of appeal against judgments of the court of first instance to the appeal court within 45 days. As a rule, the appeal court will not intervene on points of fact unless a severe and obvious error is clearly evident.

Leave to appeal is required to allow access to a second appellate instance and to appeal interim decisions.

Most district courts will now complete hearing of an appeal within three years. At the Supreme Court, however, a case may take much longer.

iii Arbitration

Arbitration is very similar to a court process – evidence is brought, and discovery and testimony can be compelled by the arbitrator by using the court's mechanism. Rules of evidence do not apply where parties have not agreed otherwise.

As stipulated by the Commissioner, an insurance policy may not include a clause binding the insured to arbitration in the event of a future dispute. This clause is considered to be prejudicial to insured's rights. This stipulation does not apply when the insured specifically agreed to the arbitration clause.

Rabbinical Courts for Financial Disputes operate within the orthodox Jewish communities. They address legal issues according to Jewish Law (in Hebrew – 'Din Torah'), the law of the Torah. These Rabbinical Courts operate under the Arbitration Law that enables two parties to select an arbitrator suitable to them, and the verdict's execution can be enforced under this law.

iv Mediation

Mediation is the most common form of alternative dispute resolution and a recent amendment to the Civil Procedure Rules mandates referral of all litigants in all claims for over 75,000 shekels (excluding damages for victims of motor vehicle accidents) to hold a meeting with a mediator to discuss holding mediation talks. This is a general rule and not specific to insurance cases. This is a precondition for continuing to trial, but the court is not authorised to penalise parties for not agreeing to mediation or for not making an offer to settle.

A positive incentive for early settlement is afforded by rules regarding payment and refund of court charges. Court charges are levied on monetary claims at the rate of 2.5 per cent of the claim. Half of the court charges will be refunded automatically to parties that settle before three pretrial hearings have been held and the court is authorised to refund the entire charges paid if a resolution is reached, at any stage, by mediation or arbitration.

vi Subrogation

Subrogation in Israel stems from Section 62 of the ICL, which transfers to the insurer any rights that the insured may have for remedy in relation to the insured loss upon payment of the insurance benefits. It is seemingly a simple matter of transferring rights from the insured to the insurer regarding the insured damage, against third parties. However, as shown in a ruling by the Supreme Court in *Lloyd's Underwriters and IEC v. Ashdod Port*,[9] the subrogating insurers may have to make additional efforts to prove the elements of the claim to ensure the full transfer of rights and benefits.

Under Israeli law, subrogation is contingent on the insurer establishing all the following conditions:

a the obligation to pay insurance benefits on the basis of a valid policy;
b actual payment of insurance benefits on the basis of this obligation; and
c proof of the insured's right for compensation from a third party in relation to the insured event or damage.

The above-mentioned Supreme Court judgment emphasises the fact that to preserve and ensure the prospects of subrogation, the insurer must invest efforts, beyond those necessary to determine coverage, to investigate and preserve evidence necessary for the future subrogation claim by determining the exact nature of the damage and cannot rely on the advice of an interested party, such as the manufacturer or supplier of the damaged product.

In *Clall Insurance Company Ltd v. Vaxman Engineering* (July 2020),[10] the district court stated that a subrogation right is not an absolute right. In a case regarding contractors' all-risk insurance, the court dismissed a subrogation claim against a subcontractor who was included as an additional insured in the policy. The court stated that when an insurer agrees to include additional insureds in the policy, such as a subcontractor, it waives its right of subrogation against the additional insureds, even if they are responsible for damage to the main insured. The appeal to the Supreme Court was withdrawn by the appellant.

vii Subrogation by a foreign insurer

In December 2021, in *Teva Pharmaceuticals Ltd v. Ayalon Insurance Company Ltd*, the Supreme Court[11] handed down a comprehensive precedent and determined, contrary to former ruling, that a foreign insurer has a right to file a subrogation claim in Israel even if not admitted or licensed to write insurance business in Israel. The court emphasised that an insurer's right of subrogation is based on the important principle of unjust enrichment (i.e., that the tortfeasor should not benefit from the fact that the injured party purchased insurance). Furthermore, the court stressed that the right of subrogation is an important factor in the pricing of insurance. Thus, it is an important consideration of the insurance industry. In addition, it is important to give insurers an incentive to pay insurance benefits by acknowledging their potential recovery from the tortfeasor. The legal and regulatory requirement under the Control of Financial Services (Insurance) Law, which applies to insurers that transact insurance business in Israel, was not aimed to protect the tortfeasors and enable them to avoid their liability merely because the insurer is foreign.

9 CA 7287 - 12 (2014).
10 CC 18638-11-18.
11 CA 206/20.

The Supreme Court determined that if the insurance contract is governed by Israeli law, the foreign insurer is entitled to file a subrogation claim pursuant to Section 62 of the ICL. If the insurance contract is not governed by Israeli law, the foreign insurer is entitled to file a subrogation claim by virtue of the principles of unjust enrichment.

V YEAR IN REVIEW

i Amendments to the Insurance Contract Law

The latest amendments to the ICL include extending the limitation period of life, health and nursing insurance claims from three to five years. In addition, the new Section 31a mandates that in response to an insurance notification, the insurer must include in his or her answer to the insured details of the limitation period, specifying that the limitation period is not suspended following such notification. The information regarding the limitation period should be clear and noticeable and should be repeated periodically by the insurer.

The Ministry of Justice published a bill for additional proposed amendments to the ICL. It includes proposed widening of the Commissioner's authority to impose punitive interest if they find that an insurer did not indemnify the insured the amounts that are not in good faith in dispute, within the relevant time frame. The bill also proposes to extend the limitation period if a complaint was made to the Commissioner. If and when the bill will be approved remains to be seen.

ii Cyber technology

The Regulations for the Protection of Privacy (Information Security) became effective in May 2018. The Regulations established, for the first time in Israel, a specific arrangement regarding protection of databases, including establishing organisational procedures and risk management enhancement steps. They also include a duty to immediately report any severe data breach to the Database Registrar at the Privacy Protection Authority, which may instruct that notification be given to data subjects who may be affected. This constituted a substantial development in the data breach regulatory regime in Israel and highlighted the importance of purchasing cyber insurance. The Israeli regulator privacy (the Privacy Protection Authority) has been taking a more pro active approach in recent years in investigating breaches of the Regulations post cyber incidents and instigating enforcement proceedings.

A new bill titled Cyber Protection and the National Cyber Directorate (Authorities to Strengthen Cyber Defense) (Temporary Provision) was published in 2021. The bill has been brought for approval as a temporary provision for a period of two years, while legislative efforts will be made to complete a comprehensive 'Cyber Law'. The bill deals with the authorities of the National Cyber Directorate to be involved in cyber events, while protecting 'vital public interests'.

Several class actions have been filed against companies in Israel for breach of privacy protection following cyberattacks. Case law is still not developed in this respect. In July 2022, the District Court in Haifa rendered a decision in the *Axelrod v. Facebook* class action motion,[12] denying plaintiff's allegations against Facebook in respect of a data leakage it has sustained. The Court ruled, inter alia, that Facebook is not required to anticipate all possible attack routes on its platform, and that an absolute immune security plan from cyber incidents is

12 Cl.A. 7322-10-18.

unrealistic. It was ruled that Facebook could not anticipate in a reasonable manner the attack or the exploited vulnerability, as the attack included a rare combination of components. Therefore, the court decided to reject the class action motion against it. This decision set out the concept that not every cyberattack could lead to imposition of liability on the victim of the attack and may have implications with regard to pending and future similar claims.

Penetration of cyber insurance is growing in Israel as a result of increased awareness and the impact of the new regulations, as well as published reports on significant events in 2020 and 2021, which increased the appetite of Israeli companies to purchase cyber insurance. However, the global trend of hardened terms in cyber insurance may have some cooling affects.

iii D&O insurance

The relatively new Insolvency and Rehabilitation Law imposes liability on the CEO and the directors of companies in any case where these individuals knew or could have known that the company was insolvent and did not take reasonable measures to mitigate the scope of the insolvency. In such cases, the directors and the CEO could be held liable towards the corporation for the losses sustained by the creditors, as a result of their failure to prevent or mitigate the losses. Certain provisions of the law provide a safe harbour defence for directors and CEOs; however, the law prohibits the corporation from granting them exemption or indemnification.

Insurers that write D&O policies in Israel may wish to address the extended duties of directors and CEOs under the law.

There are also new duties attached to D&Os of companies regarding cyber risk management and reporting that could be included in the company and D&O insurance.

Amendment to the Economic Competition Law, imposes a positive duty on an officer of a company to observe the law and to do his or her utmost to prevent its violation. If an offence is committed by the company (or one of its employees) the officer will be deemed to have breached this duty unless it can be proved that the officer took all possible measures to fulfil his or her duty.

In recent years, D&O insurers have been facing a challenging legal environment as a result of the broadening of the scope of D&Os' duties by Israeli courts. This trend manifested especially in respect of directors' supervisory duties over the implementation of company policy. In the absence of any substantial court decisions, the accepted legal position is that the ordinary concept of duty of care also attaches to supervisory duties. Without clear guidelines on this crucial issue, insurers have preferred to settle derivative actions against directors based on cases of breach of supervisory duties to contain significant costs and the risk of adverse judgments and very high compensatory awards. The author's firm, Gross Orad Schlimoff, has in the past met and communicated with different relevant regulators (the Ministry of Justice and the Commissioner) to express insurers' concerns in these matters. In January 2021, a major breakthrough occurred when the State Attorney exercised his prerogative to intervene in derivative actions and requested the courts to consider forming clear guidelines on the required standing and nature of directors' supervisory duties. The State Attorney suggested that the standard of fault on the part of directors required for imposition of liability be somewhere between the standard formed by the US Delaware Court of Chancery and 'merely' negligence.

iv Reinsurance and solvency

The Capital Markets Authority published guidelines for insurance companies regarding reinsurance transactions and Insolvency ratio in order to ensure prudent risk management in compliance with international standards.

The guidelines include, inter alia:

a effective transfer of risk rather than synthetic adaptation to calculations of capital ratio models;

b in examining the reinsurance contract, the insurance company should examine, inter alia, if the exposure covered by the transaction is similar to its exposure in respect of its policies;

c the effect of the transaction on the capital ratio should correspond with the extent of the risk transfer;

d The insurance company should examine its and the reinsurer's ability to implement the contract, the reinsurers experience in similar insurance areas and whether the conditions for applications and termination of the contract would change the effectiveness of the risk transfer; and

e the insurance companies are required to report to the Commissioner any complicated and material transaction to Improve capital ratio. prior to signature.

v AI

In March 2023, one of the leading Israeli insurance companies announced it will incorporate Microsoft Azure Open AI in its business proceedings including communications' summaries, background and previous customer communications.

We expect other companies to continue in similar directions.

VI OUTLOOK AND CONCLUSIONS

The Israeli insurance market has been and will most probably continue to be very competitive, and subsequently in many classes of business a soft market is expected, especially for personal products.

Another expected trend is increased sales of direct insurance.

Since Israel is known for its innovations, it is expected that new innovative products relating to insurance as well as introduction of new technological ideas for the insurance industry will be presented by the market.

There is little doubt that technological innovation and insurtech companies will optimise the performance of all aspects of the insurance in the next year.